

Special Meeting of the Middletown Zoning Board October 13, 2009

A special meeting of the Middletown Zoning Board of Review was held on October 13, 2009 at 7:00 p.m.

Due to the absence of Chairman- Tom Silveira Vice Chairman- Peter Van Steeden will be acting Chairman and Tom Newman will be Vice-Chairman also present were Secretary- Lucy Levada, 1st. Alternate Frank Flangan 2nd Alternate- Greg Schultz. 3rd. Zoning Officer - Jack Kane and Assistant Town Solicitor- Turner Scott. Alternate Michael Potter was absent.

Continued cases:

1. Petition of Bancroft Partners, LLC-1100 Aquidneck Ave.-Middletown, R.I.- by their Attorney Robert M. Silva Esq.- for a Variance from Sections 603- to re-subdivide Lots 123 & 127 such that proposed Lot A will have Lot frontage of 13.3 feet where 130 feet is required and proposed Lot B will have side yard setbacks of 7.2 feet and 12.5 feet where 20 feet is required. Said real estate is located at 575 Tuckerman Ave. And further identified as Lot 123 & 127 on Tax Assessor's Plat 122

2. Petition of.-Bancroft Partners,LLC- and John Bagwill & Emily Bagwill- 587 Tuckerman Ave. Middletown, R.I.- (owners) -Bancroft Partners LLC- by their Attorney Robert M. Silva Esq.-1100 Aquidneck

Ave. -Middletown .R.I.(applicant)- for a Variance from Section 603 -to re-subdivide Lots 123 & 124 and 12700 such that a proposed Lot (Parcel A) as shown on certain plans as filed herein revised as of 1/22/09 having street frontage of 13.06 ft where 130 ft is required. Said real estate is located at 575 & 585 Tuckerman Ave. and further identified as Lots 123, 124 & 12700 on Tax Assessor's Plat 122.

Attorney Silva who has an interest in this case asked the chairman that he would proceed where he left off at the other meeting if there is no one else present to be heard that has an interest in this case. That hasn't been at any public hearing so they would not have to go over this whole case again because what we are proposing is instead of doing this all over, because Mr. Bagwill is now, and his wife Emily, are co-owners with the Bancroft group. We re-advertised and to avoid going back to the beginning with

Mr. Lipsitz -Land Surveyor and Mr. Hubbard testimony again, Attorney Chris Behan and Town Solicitor Scott agreed to continue, and keep all exhibits and testimony that we have heard to date. Attorney Silva had one witness left , George Turgin real estate expert at the last minute could not be present due to his mother's grave illness and ask to have the right to bring Mr. Durgin back at another date, Attorney Chris Behan agreed and will present his case with only 1witness Ed Pimental. 26 Avon Road Cranston, R.I. an expert in Planning and Zoning. A report from Mr. Pimental dated October 14, 2009 was presented to the board. And stated he was engaged by Mrs. Lang to provide services in this case and to analyze both currant

administrative subdivision proposal. Board member Tom Newman questioned the witness on Zoning Laws and CRMC Laws .Vice-Chairman- Peter Van Steeden questioned if the location was the only location suitable. Board member Greg Schultz questioned in 2005 what applications were exactly submitted and approved by the Zoning Board. Mr. Jim Dobbins an abutter was sworn in and testified that it seems like the optimal site for a house on the lot, which is 2 lots together.

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What the Bancrofts Associates owns, our feeling is that it should be kept away from the place of greater scenic value, which is our opinion, the waterfront.. So sitting a house towards the front of the lot 127, I guess it is, our opinion better than abutting along the seacoast there; and how that constrains the development one way or the other, in terms of lot configuration, the proposed changes, as I see that's being debated here, would serve to put the house more up on the straight, and away from the areas that would impact the scenic vista.. I speak in favor of the change back, or the lot configuration, than it was previously, as much as can be done. # Exhibit K- Durgin Appraisal Valley Rd. Middletown R.I. was sworn in and testified earlier on behalf of Bancroft Partners and could not be here as stated earlier by Mr. Silva. Chairman- Silveira doesn't want to burden the Board with another meeting this one was productive. I am thinking about having a Finding of Facts presented to the board. Solicitor Scott suggested that we have only 1 more witness Mr. Durgin and our

November Petitions aren't many so he suggested also that we do have a Finding of Facts, and permit a limited oral argument so it would be helpful to him and the board. Greg Schultz stated that this is a complex and somewhat difficult application and would like to continue the meeting to our next regular meeting in November. Mr. Durgin will present a written report and we should have that beforehand along with the Finding of Facts. 10 days before the next meeting November 24, 2009.

Meeting adjourned 8:25 p.m.

Respectfully Submitted

**Lucy R. Levada
Secretary**